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HIGH COURT OF CHHATTISGARH; BILASPUR

M.C.C.NO. 75 OF 2006

Applicant		Umakant Mahobiya
	Vs	
Non-applicants		Ku. Kiran Mall and others.

Post for order: 20-4-2007

Sd/-
Satish K. Agnihotri
Judge

HIGH COURT OF CHHATTISGARH; BILASPUR

M.C.C.No. 75 of 2006

Applicant

Umakant Mahobiya, S/o. Palbhadra Mahobiya, R/o. Mahobiya Para, Chhukhadan, District Rajnandgaon, CG.

Respondent No.3.

Versus

Non-applicants

1) Ku. Kiran Mall, aged 31 years, R/o. Near Forest Naka Dau Chourha, Khairagarh, Dist. Rajnandgaon, CG.

... Petitioner.

2) State of Chhattisgarh, through : The Secretary, Environment & Town Development, Department, D.K.S. Bhawan, Raipur.

Respondent No.1

3) Nagar Panchayat Chhuikhadan through its Chief Municipal Officer, Nagar Panchayat, Chhuikhadan, Dist. Rajnandgaon.

Respondent No.2

(Application for review of the order dated 02-01-2006)

SB: Hon'ble Mr. Justice Satish K. Agnihotri

Shri Raghvendra Pradhan, counsel for the applicant.
Shri Vinay Pandey, Panel Lawyer for non-applicant No.2.

ORDER

(Passed on 20th April, 2007)

1. After notice was duly served on all the respondents, non-applicant No.3 herein (respondent No.2 in Writ Petition No.1659/2002) Nagar Panchayat, Chhuikhadan, filed its return stating that this Court may pass appropriate orders. Non-applicant No.1 who was the petitioner in Writ Petition No.1659/2002 despite service of notice did not choose to appear or make any representation in the petition. Learned counsel for the applicant and learned counsel for non-applicant No.2 appeared and they were heard.

2. This is an application to review the order dated 2-1-2006 passed by this Court in Writ Petition No.1659/2002.

3. On perusal of the judgment/order, it appears that apparent error has been crept in the order sought to be modified herein. The petitions were allowed on the ground that the statutory requirement of Section 331 of the Chhattisgarh Municipalities Act, 1961 (for short, "the Act") provides that the State Government may modify or reverse the order of a Divisional Commissioner, Collector, Prescribed Authority or any other officer appoint ed or authorized by the State Government under this Act as it deemed fit; provided that no order shall be varied or reversed unless notice has been given to the parties interested to appeal and to be heard in support of such order.

4. The State Government vide order dated 29-7-2002 in exercise of its power under Section 331 of the Act, quashed the Resolution No.1 passed by the Standing Committee of Nagar Panchayat, Chhuikhadan, and the Resolution No.1 dated 8-9-1998 passed by the Education Committee without affording an opportunity of hearing to the parties interested to appeal. This Court, while holding that the petition deserves to be allowed on the short ground that the show cause notice and opportunity of hearing were not given to the petitioner which is mandatory and other provisions of law, quashed the impugned termination order dated 2-8-2002 passed by Nagar Panchayat, Chhuikhadan. Pursuant to the order dated 29-7-2002 passed by the Government (by mistake the order dated 29-9-2002 was mentioned which was also quashed). It appears that the order dated 29-7-2002 passed by the State Government is not in accordance with law as no proper opportunity of hearing to the petitioner was afforded, it ought to have been quashed and remanded back the matter to the revisional authority exercising power under Section 331 of the Act, to reconsider the case after issuing show cause notice to all the concerned interested parties.

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5. Accordingly, para 10 of the order dated 2-1-2006 passed in Writ Petition No.1659/2002 is reviewed and modified to the extent that the order dated 29-7-2002 passed by the Government is quashed and set aside. The matter is remitted back to the State Government for deciding the case afresh by issuing proper notice to all the concerned interested parties.

6. It is ordered accordingly.

Sd/-
Satish K. Agnihotri
Judge

Raju